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ELECTION COMMISSION INDIA

RAJASTHAN ELECTION TRIBUNAL BIKANER AT BIKANER
NOTIFICATIONS

Bikaner, the 23rd October 1952

No. 332 of 1952.—In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information.

Illegible, Chairman.

IN THE ELECTION COMMISSION INDIA, NEW DELHI

ELECTION PETITION NO. 332 OF 1952 OF ELECTION COMMISSION INDIA.
Petitioner:—

Ban Raj, son of Naraindas, of Jodhpur, Ward No. 10, Jalap Mohalla.

Versus

Opposite Party:—

1. Shri Jaswant Raj, Ladnun House, Bagar, Ward No. 3, Jodhpur.
2. Shri M. Y. Nurie, Kolaba, Bombay.
3. Shri Ratan Lal, Phulla Road, Ward No. 6, Jodhpur.
4. Shri Haider Bux, Haider Building, Sojti Gate, Jodhpur and Gulab Khana, Belanganj, Agra.
5. Shri Sita Ram Jaipuria, Kanpur.
6. Shri Shreedhar, Janveri Bazar, Ward No. 11, Jodhpur.
7. Shri Prabhulal Himmatsinghka, Calcutta.
8. Shri Mubarak Mazdoor, Allahabad.
9. Shri Gumansingh, Zalim Vilas, Paota, Jodhpur.
10. Shri Aidan Singh, Pal House, Gulab Sagar, Jodhpur.
11. Shri Hakim Nisar Ahmed, Jalap Mohalla, Ward No. 10, Jodhpur.

Election petition under section 81 of the Representation of the Peoples Act, 1951, calling in question the by-election dated 29th April, 1952, to the House of the People from the Jodhpur Constituency.

The Petitioner respectfully submits the petition on the facts and grounds stated as follows:—

FACTS

That the Jodhpur seat of the House of the People was declared vacant and the last date or filing the nomination for the bye-election of the Constituency was 24th April, 1952.

That the petitioner is a voter in the said constituency entered at No. 1545. Circle No. 2, Ward No. 10, Jodhpur.

That the opposite party No. 1 to 11 filed their nomination papers within the time prescribed therefor.

That the nomination paper of the opposite party No. 11 was rejected by the Returning Officer on 26th April, 1952 which was the date fixed for the scrutiny of the nomination papers.

That the nomination papers of opposite party No. 1 to 10 were duly accepted.

That eventually the election was held and the opposite party No. 1 was declared to be elected on 22nd June 1952, in the *Gazette of India*.

That the Returning Officer rejected the nomination paper of opposite party No. 11 on the grounds:

- (1) That opposite party No. 11 was not a citizen of India and consequently not qualified to be chosen to fill the said vacant seat, and
- (2) secondly, he was not entitled to be registered in the Electoral Rolls, as it had not been proved that he ordinarily resided in Jodhpur for 180 days during the qualifying period as prescribed under the Representation of the Peoples Act, 1951.

GROUND

1. That the rejection of the nomination paper of opposite party No. 11 was improper and consequently the result of the bye-election had been materially affected.

2. By improper rejection of the nomination of opposite party No. 11, the electorate had been deprived of its right to vote for Hakim Nisar Ahmed.

3. Had the nomination of opposite party No. 11 been accepted the results of the election would have been different.

4. That the Returning Officer in this case, namely, the Collector of Jodhpur, was also the Returning Officer for the conduct of the elections of the Jodhpur City 'B' Constituency of the Rajasthan Legislative Assembly.

5. That the opposite party No. 11 was a candidate for the Jodhpur City 'B' constituency of the Rajasthan Legislative Assembly and that the very officer had accepted the nomination paper of the opposite party No. 11.

6. That the Returning Officer had grossly erred in holding that the opposite party No. 11 was not a citizen of India.

7. That the Returning officer has relied upon the judgment dated _____ of the High Court, Rajasthan. But the said judgment has no bearing on the case, in as much as it was the judgment in a *Habeas Corpus* petition whose scope was very narrow and that judgment could not be deemed to have decided the right of citizenship of opposite party No. 11.

(8) That opposite party No. 1 is a permanent citizen of India and he never relinquished that citizenship. On 10th July, 1948, when there was no permit system, he did visit Pakistan on business and was coming back to India on 27th July, 1948, when the permit system was introduced. He could obtain only a temporary permit for returning to India as it was not easy to get permanent permit unless one was prepared to wait for some months. After that the opposite party No. 11 never visited Pakistan. As the local police objected to the opposite party No. 11 staying in India on the basis of a temporary permit he approached the Deputy Commissioner, Jodhpur, for writing to the High Commissioner for India in Pakistan for a permanent permit. On 1st March, 1949, the Deputy Commissioner wrote to the High Commissioner for India to Pakistan that the Opposite party No. 11 was an Indian National and not an evacuee from India and that the temporary permit may, therefore, be cancelled. That meanwhile the police put him under arrest and he had to file a *Habeas Corpus* petition which was dismissed by the High Court of Rajasthan.

(9) That the opposite party No. 11 went up in appeal to the Supreme Court of India and the Supreme Court was pleased to stay the order of the High Court of Rajasthan. The appeal has not yet been decided.

(10) That the opposite party No. 11 also moved the Government of India for writing to the High Commissioner for India to Pakistan to grant permission to opposite party No. 11 to resettle permanently in India. That accordingly the Government of India wrote to the High Commissioner for India to Pakistan as requested by the opposite party No. 11, vide copy of the letter dated 8th December, 1950, enclosed herewith.

(11) That the opposite party No. 11 did reside in Jodhpur for 180 days during the qualifying period as would be evident from the certificate of the Municipal Secretary, Jodhpur—copy enclosed for ready reference.

(12) That the Revising Authority, Shri K. S. Ujwal, had already decided that the opposite party No. 11, be enrolled as a voter and his name was accordingly so enrolled and his name existed on the Electoral rolls on the date of the scrutiny of the nomination papers.

(13) That Shri M. J. Mardia, the successor of Shri K. S. Ujwal had no jurisdiction to review the order passed by Shri K. S. Ujwal. At any rate, the Electoral Rolls had not been amended in personance of Shri Mardia's orders.

(14) That the nomination papers of the opposite party No. 11 was accepted by Returning Officer, Nagaur, for Nagaur East Constituency of the Rajasthan Legislative Assembly on the 2nd December, 1951.

(15) That the opposite party No. 11 had not been given any hearing by the Returning Officer.

That the petitioner respectfully prays that this petition may kindly be accepted and the election of opposite party No. 1 may be declared to be void and of no effect.

Sd/- Ban Raj Kalla.

I, Ban Raj, son of Narain Das r/o Jodhpur, Ward No. 10, do hereby verify that paras. containing facts and grounds of the above petition are true to my knowledge.

Sd/- Ban Raj Kalla.

Compared by illegible and illegible.

New Delhi, the 27th October 1952

No. 56-HP/52-1-Elec.III.—In exercise of the powers conferred by clause (d) of section 30 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the date specified in column 2 of the table below as the date on which a poll shall, if necessary, be taken in the areas comprised within the polling stations specified in the corresponding entry in column 1 of the said table, at the election to be held in the Renka Constituency of the Himachal Pradesh Legislative Assembly in pursuance of its notification No. 56-HP/52-1-Elec.III(1), dated the 21st October, 1952:—

TABLE

Name of Polling Station	Date of Poll.
1	2
Rajana Bharari Dana Naina Dasakna Gandahan Jammu-Koti Shalai Kandondugana Bhalli	7th December, 1952.

1	2
Ganog Gandhuri Statahan Jhakhandon Panjahan Koti Dhaman Milla Shilla Jamna Banswa	} 9th December, 1952.
Ludhiana Bhawale Halahan Ajoli Kota Kuhant Tatlana Sharliwanpur Batrol Bandli	} 11th December, 1952.

P. N. SHINGHAL, Sec.